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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

STEVE HINDMAN,

Petitioner,

v.

ROBERT LAMPERT,

Respondent.

Civ. No. 03-293-TC

ORDER

Aiken, Judge:

Magistrate Judge Coffin issued his Findings and Recommendation in the above-captioned case on March 8, 2007. Magistrate Judge Coffin recommends that the petition for writ of habeas corpus be denied and the case dismissed. Magistrate Judge Coffin found that petitioner failed to establish that his counsel created a conflict of interest or rendered ineffective assistance of counsel by

advising petitioner's parents that they could invoke their Fifth Amendment rights at petitioner's trial or by failing to compel their testimony. Magistrate Judge Coffin also found that petitioner failed to establish ineffective assistance of counsel based on counsel's failure to assign error to the denial of his motion to suppress the pretrial identification of petitioner as overly suggestive. The matter is now before me. See 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

When either party objects to any portion of a magistrate judge's Findings and Recommendation, the district court must make a de novo determination of that portion of the magistrate judge's report. See 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981).

Respondent has filed timely objections to the Findings and Recommendation. Upon de novo review, I find no error and adopt the analysis contained in Magistrate Judge Coffin's thorough and well-reasoned opinion. Given the facts of the case, petitioner cannot establish that his counsel created a conflict of interest by advising petitioner's parents of their Fifth Amendment rights. Further, petitioner fails to establish either deficiency of performance or prejudice based on counsel's failure to compel potentially perjured testimony or to assign error to the trial court's denial of his motion to suppress.

THEREFORE, IT IS HEREBY ORDERED that Magistrate Judge Coffin's Findings and Recommendation (doc. 82) filed March 8, 2007, is ADOPTED in its entirety. The Amended Petition for Writ of Habeas Corpus (doc. 56) is DENIED and this case is DISMISSED.

IT IS SO ORDERED.

Dated this 5 day of March, 2007.

Ann Aiken

Ann Aiken
United States District Judge